



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET SW  
ATLANTA, GEORGIA 30303-8960

**SENT VIA ELECTRONIC MAIL**

Mr. Michael Bedwell, Chief Executive Officer  
All American Diesel Performance LLC  
501 North Broad Street  
Brooksville, Florida 34601  
allamericandieselperformance@gmail.com

Dear Mr. Bedwell:

Pursuant to Section 208(a) of the Clean Air Act (CAA or the Act), 42 U.S.C. § 7542(a), you are hereby required to provide the U.S. Environmental Protection Agency with information relating to All American Diesel Performance LLC (All American Diesel Performance) business. The EPA is seeking this information to determine whether All American Diesel Performance is in compliance with requirements of Sections 203(a) and 213(d) of the Act, 42 U.S.C. §§ 7522(a) and 7547(d), and the applicable motor vehicle regulations at 40 C.F.R. Parts 85, 86, and 1068.

The EPA issues this Request for Information under Section 208(a) of the CAA, 42 U.S.C. § 7542(a). Under Section 208(a), the Administrator of the EPA may require any person who is subject to the CAA, Title II, Part A – Motor Vehicle Emission and Fuel Standards, Sections 202 – 219, 42 U.S.C. §§ 7521-7554, to perform tests and provide information necessary to determine whether the person is acting or has acted in compliance with the CAA and the regulations promulgated thereunder. The Administrator has delegated this authority to the Director of the Enforcement and Compliance Assurance Division, Region 4.

Please review the following enclosures and complete as appropriate: Instructions (Enclosure 1), Definitions (Enclosure 2), Claiming Confidentiality (Enclosure 3), Request for Information (Enclosure 4), Statement of Certification (Enclosure 5), and Service Spreadsheet (Enclosure 6).

The requested information shall be submitted to the EPA electronically, per the instructions in Enclosure 1. The responses shall be submitted **no later than 30 calendar days** after All American Diesel Performance's receipt of this letter as determined by the date of the EPA's email transmitting this request, unless the EPA, for good cause shown, extended in writing the deadline for responding to this request. This information must be submitted electronically to the following individual:

Tony Spann  
Case Development Officer  
Air Enforcement Branch  
Enforcement and Compliance Assurance Division  
U.S. Environmental Protection Agency, Region 4

61 Forsyth Street SW  
Atlanta, Georgia 30303  
spann.tony@epa.gov

Failure to provide the information required by this letter is a violation of the Act and may result in one or more of the following actions: (1) commencement of a civil action seeking compliance with this request pursuant to Section 204 of the Act, 42 U.S.C. § 7523; (2) issuance of an administrative penalty order pursuant to Section 205(c) of the Act, 42 U.S.C. § 7424(c); (3) commencement of a civil action in accordance with Section 205(b) of the Act, 42 U.S.C. § 7524(b); and/or (4) any other action authorized under the Act.

Under Section 208(c) of the Act, 42 U.S.C. § 7542(c), and pursuant to the regulations found at 40 C.F.R. Part 2, Subpart B, including 40 C.F.R. § 2.301, you are entitled to assert a claim of business confidentiality for any information you provide to the EPA which you regard as confidential business information (CBI). For such information, you may request that the EPA treat such information as confidential. Any such claim of confidentiality must conform to the requirements of 40 C.F.R. § 2.203(b). Note that “emission data,” as defined by 40 C.F.R. § 2.301(a)(2), cannot be claimed as confidential under Section 208(c) of the Act, 42 U.S.C. § 7542(c). For detailed instructions for claiming confidentiality, please see Enclosure 3. Information you supply under a claim of confidentiality will be treated in accordance with 40 C.F.R. Part 2, Subpart B, and will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by the EPA, it may be made available to the public by the EPA without further notice to All American Diesel Performance. Please note that any confidentiality claim does not obviate the need to send that portion of the response to the EPA.

The response to the information requested must be accompanied by Enclosure 5, Statement of Certification, which is to be signed and dated by a responsible official of All American Diesel Performance. This statement certifies that the response submitted to the EPA is complete and contains all documents and information responsive to this request that are known to you, following a complete and thorough review of all information and sources available to you.

This request is not subject to the Paperwork Reduction Act, 44 U.S.C. §§ 3501 – 3520, because it seeks information from specific individuals or entities as part of an investigation.

If you have any questions regarding this matter, please contact Tony Spann at 404-562-8971 or by email at [spann.tony@epa.gov](mailto:spann.tony@epa.gov).

Sincerely,

Carol L. Kemker  
Director  
Enforcement and Compliance Assurance Division

Enclosures

## **ENCLOSURE 1**

### **Instructions**

1. Provide a separate response to each Request set forth in Enclosure 4.
2. Indicate on each document produced, or in some other reasonable manner, the number of the Request to which it corresponds. If a document is responsive to more than one Request, this must be so indicated and only one (1) version of the document needs to be provided.
3. The company shall submit documents in Portable Document Format (PDF) or in any other electronic format as specified in Enclosure 4. Do not create separate PDF files for each page of a single document.
4. Please provide your responses to Requests 2 and 3 in an unlocked, electronic spreadsheet format. For your convenience, the EPA has provided Enclosure 6 which consists of an Excel template in which you are requested to organize your responses to Requests 2 and 3. If Excel format is not available, then the format should allow for data to be imported and used in calculations by a standard spreadsheet program such as Excel.
5. Identify each person whom you relied on or consulted with in preparing your responses to each question of this information request. Provide their name, title, job duties, and duration of employment with the company. If they are not an employee of the company, identify their employer and provide their name, title, job duties, and duration of employment with their employer.
6. If requested information or documents are not known or are not available to you at the time of your response to this information request, but later become known or available to you, you must supplement your response to the EPA within 30 calendar days of discovery of the responsive information. Moreover, should you find at any time after your submission of your response that any portion is or becomes false, incomplete, or misrepresents the facts, you must provide the EPA with a corrected response as soon as possible.
7. Please submit your response to this Request to the EPA electronically. You may submit your response using any of the following options: A.) via email to [spann.tony@epa.gov](mailto:spann.tony@epa.gov); B.) by requesting a link from the EPA for a secure file transfer site where you may upload your response; or C.) as electronic files on a USB drive or CD sent by mail to: Tony Spann, Air Enforcement Branch, Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia, 30303. Please note, the EPA cannot receive compressed files (.zip) via email. If you wish to submit compressed files, please select option B or C above.
8. Please do not send documents that you have claimed as confidential business information (CBI) to the EPA over the internet. If you have documents that you have claimed as CBI to submit, please send them as electronic files on a USB drive or CD by mail (option C).
9. Prior to submitting your response, please send an email to Tony Spann at [spann.tony@epa.gov](mailto:spann.tony@epa.gov) indicating which option or combination of options (A, B, and/or C) you have selected to submit your response to this request.

## **ENCLOSURE 2**

### **Definitions**

1. The term “affiliated organization” or “affiliate” means any organization or entity associated with All American Diesel Performance as an agent, parent organization, predecessor corporation, sister company, subsidiary organization, or any organization or entity acting in lieu of you.
2. The term “catalysts” means systems of devices which increase the rate of a chemical reaction but are not one of the original reactants or final products, *i.e.*, the catalyst is not consumed or altered in the reaction. The term “catalysts” includes emission control catalysts such as diesel oxidation catalysts (“DOCs”), NOx adsorber catalysts (“NACs”), and three-way catalysts (“TWCs”).
3. The term “DPF” refers to diesel particulate filters, which are exhaust aftertreatment devices that typically use a porous ceramic or cordierite substrate or metallic filter to physically trap particulate matter (“PM”) and remove it from the exhaust stream.
4. The term “element of design” means any control system (e.g., computer software, electronic control system, emission control system, computer logic), and/or control system calibrations, and/or the results of systems interaction, and/or hardware items on a motor vehicle or motor vehicle engine, as defined in 40 C.F.R. §§ 86.094-2 and 86.1803-01.
5. The term “electronic control module” or “ECM” means a device that receives inputs from various sensors and outputs signals to control engine, vehicle, or equipment functions. The ECM uses software programming including calculations and tables of information to provide the appropriate outputs. Multiple electronic control modules may be incorporated in a single unit to control various engine, vehicle, or equipment functions.
6. The term “engine management product” or “EM product” means any device or product capable of accessing, altering, or replacing the software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information stored within or used by an ECM. EM products include, but are not limited to, programmers, modules, tuners, tunes, ECM calibration tools, replacement ECMs, and flash tools.
7. The term “emission related parts” means those parts installed for the specific purpose of controlling emissions, or those components, systems, or elements of design which must function properly to assure continued vehicle emission compliance, as defined in 40 C.F.R. § 85.2102.
8. The term “engine tune,” “tune,” or “calibration” means any combination of software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information, stored in any form, capable of affecting or controlling an ECM.
9. The term “entity” means any natural person, corporation, partnership, limited liability company, sole proprietorship, joint venture, or any formal or informal group, organization or association.
10. The term “exhaust product” means exhaust components designed for use downstream from the exhaust port of a motor vehicle engine, and include, but are not limited to turbochargers, EGR block plates, EGR delete kits, EGR reroute kits, EGR solution kits, aftermarket EGR coolers, exhaust

replacement pipes, downpipe-back exhaust systems, turbo-back exhaust systems, race pipes, test pipes and straight pipes.

11. The term “exhaust gas recirculation” or “EGR” means systems which redirect, usually by use of an EGR valve, a portion of engine exhaust back into the engine’s combustion chamber to cool and reduce peak combustion temperatures and pressures, thereby reducing the production of nitrogen oxides (“NOx”). The EGR system may include an EGR cooler to cool the recirculated exhaust to further reduce the combustion temperature.
12. The term “information” includes any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intraoffice communications, electronic mail (“email”), instant messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting, or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, presentations, spreadsheets, and worksheets. The term “information” includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto. The term “information” also includes any graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, voicemails, microfiche, microfilm, videotapes, recordings, and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, back-up tape, memory sticks, recordings, and removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, electronic format, disk, videotape or otherwise. Information bearing any notation not part of the original text is considered to be separate information. A draft or non-identical copy is separate information within the meaning of this term.
13. The term “person” includes an individual, corporation, partnership, or association. *See* Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
14. The term “product” includes any software code, software, hardware, program, element of design, calibration, engine tune, EM product, device, part or component.
15. The term “you,” “your,” and “All American Diesel Performance” means All American Diesel Performance, and any affiliates, predecessors, successors, assignees, agents, employees, representatives, investigators, accountants, auditors, attorneys, experts, consultants, and contractors. These terms shall also mean any others who are not listed above and are in possession, custody, or control (actual or constructive) of information relevant to this request or information that is otherwise available to All American Diesel Performance, or who may have obtained information for or on behalf of All American Diesel Performance.
16. The term “SCR” refers to the selective catalytic reduction system, which is an exhaust aftertreatment device designed to reduce NOx emissions by injecting a liquid reagent through a catalyst.

17. The term “service” means any action to change, affect, modify, bypass, render inoperative, remove, download and/or install one or more part(s) or component(s) (e.g., emission control components) or other item(s), including, but not limited to, engine parts, turbochargers, block plates, straight pipes, power packages, computer tuning, calibrations, elements of design, tuners, tunes, software, code, or devices.

All terms not defined in this enclosure have their ordinary meaning, unless such terms are defined in the Clean Air Act and/or its implementing regulations, and in which case the statutory and/or regulatory definitions apply. Words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions. The terms “and” and “or” shall be construed either conjunctively or disjunctively as necessary to bring within the scope of this information request any information which might otherwise be construed to be outside its scope.

## ENCLOSURE 3

### **Confidential Business Information (CBI) Assertion and Substantiation Requirements**

#### **A. Assertion Requirements**

You may assert a business confidentiality claim covering part or all of the information, other than emissions data and information or data that is otherwise publicly available, as described in 40 C.F.R. § 2.203(b). If no business confidentiality claim accompanies the information when it is received by the EPA, the EPA may make the information available to the public without further notice. To make a confidentiality claim, submit the requested information and indicate that you are making a claim of confidentiality. Any information over which you make a claim of confidentiality should be marked by placing on or attaching to the information, at the time it is submitted to the EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret” or “proprietary” or “business confidential” and a date if any when the information should no longer be treated as confidential. **You must be specific by page, paragraph, and sentence when identifying the information subject to your claim.** Allegedly confidential portions of otherwise non-confidential documents should be clearly identified. Information covered by such a claim will be disclosed by the EPA only to the extent permitted and by means of the procedures set forth by Section 114(c) of the Act, and 40 C.F.R. Part 2, Subpart B. The EPA will construe the failure to furnish a confidentiality claim with your response to the attached letter as a waiver of that claim, and the information may be made available to the public without further notice to you.

Please segregate personnel, medical and similar files from your responses and include that information on separate sheet(s) marked as “Personal Privacy Information” given that disclosure of such information to the general public may constitute an invasion of privacy.

#### **B. Substantiation Requirements**

All confidentiality claims are subject to EPA verification and must be made in accordance with 40 C.F.R. Part 2, Subpart B.<sup>1</sup> You bear the burden of substantiating your confidentiality claim and must satisfactorily show, among other things, that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so and that the information is not, and has not been, reasonably obtainable by legitimate means without your consent. Conclusory allegations will be given little or no weight.

Before the EPA makes a final determination regarding your claim of confidentiality, pursuant to 40 C.F.R. Part 2, Subpart B, the EPA will send you a letter asking you to substantiate fully your CBI claim by answering several questions. Your comments in response to these questions will be used by the EPA to determine whether the information has been shown to meet the requirements so as to be entitled to confidential treatment. You must provide the EPA with a response within the number of days set forth

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<sup>1</sup> 40 C.F.R. § 2.208(e) conflicts with the holding in *Food Marketing Institute v. Argus Leader Media*, 139 S. Ct. 2356, 2366 (2019) (*Argus Leader*). In light of the *Argus Leader* decision, the Agency will not consider 40 C.F.R. § 2.208(e) in this determination. The Agency anticipates amending 40 C.F.R. § 2.208 so that it is consistent with the decision in *Argus Leader*.

in the EPA request letter. Failure to submit your comments within that time will be regarded as a waiver of your confidentiality claim or claims, and the EPA may release the information.

The EPA will ask you to specify which portions of the information you consider confidential. You must be specific by page, paragraph, and sentence when identifying the information subject to your claim. Please note that if a page, document, group or class of documents claimed by you to be confidential contains a significant amount of information which the EPA determines is not confidential, your confidentiality claim regarding that page, document, group or class of documents may be denied.. For each item or class of information that you identify as being confidential, the EPA will ask you to answer the following questions, giving as much detail as possible, as conclusory allegations will be given little or no weight in the EPA's determination:

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
2. Information submitted to the EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question #1?
3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? If so, specify which.
5. Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
6. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
7. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, please explain whether the information is the kind that would customarily not be released to the public.
8. Whether you assert the information as voluntary or involuntary, please address why disclosure of the information would tend to lessen the availability to the EPA of similar information in the future.
9. If you believe any information to be (a) trade secret (s), please so state and explain the reason for your belief. Please attach copies of those pages containing such information with brackets around the text that you claim to be (a) trade secret (s).



10. Explain any other issue you deem relevant (including, if pertinent, reasons why you believe that the information you claim to be CBI is not emission data or effluent data).

Please note that emission data provided under Section 208 of the Act, 42 U.S.C. § 7542, is *not* entitled to confidential treatment under Section 208(c) of the Act, 42 U.S.C. § 7542(c) or 40 C.F.R. Part 2.

“Emission data” means, with reference to any source of emission of any substance into the air - (A) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing; (B) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emissions which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner and rate of operation of the source); and (C) a general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source). 40 C.F.R. §§ 2.301(a)(2)(i)(A), (B) and (C).

Information designated confidential will be disclosed by EPA only to the extent allowed by, and by means of procedures set forth in, 40 C.F.R. Part 2, Subpart B. If you fail to claim the information as confidential, it may be made available to the public without further notice to you.

## **ENCLOSURE 4**

### **Request for Information**

All American Diesel Performance shall submit the following information to the EPA, pursuant to Section 208 of the CAA, 42 U.S.C. § 7542, regarding certain parts or products that you installed, serviced, or sold during the period between February 1, 2021, and May 1, 2021. For Requests 2 and 3, please submit your response using the template provided as Enclosure 6, Service Spreadsheet.

1. Provide a complete, unedited copy of every service invoice for each vehicle serviced by All American Diesel Performance between February 1, 2021, and May 1, 2021, including copies of all attachments.
2. For each service invoice provided in response to Request 1, identify the type of service performed and make, model, and year of the vehicle serviced, if it is not already stated on the invoice.
3. For each service invoice provided in response to Request 1, identify if the service provided bypassed, defeated, removed, or rendered inoperative the EGR, DPF, SCR, and/or catalyst.
4. Provide copies of invoices for all exhaust products and engine management products, including all tuners and tunes, sold by All American Diesel Performance between February 1, 2021, and May 1, 2021. All American Diesel Performance may submit the requested information in an unlocked electronic spreadsheet exported from an invoice management program such as QuickBooks in lieu of PDFs, provided that the spreadsheet does not omit or truncate any sales or product information.
5. Provide a detailed, written description of All American Diesel Performance's business structure, including ownership, corporate form, parent, sister and/or subsidiary companies, and affiliated organizations.
6. Provide the name, address, telephone number, website address (URL), and email address for any manufacturer, wholesaler, dealer, or retailer from whom All American Diesel Performance has purchased engine management products, exhaust products, and/or tunes between February 1, 2021, and May 1, 2021.

**ENCLOSURE 5**

**STATEMENT OF CERTIFICATION**

I certify that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my personal inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001, 1341 and 1505.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)